

**MINUTES OF THE  
GREENSBORO ZONING COMMISSION**

**FEBRUARY 9, 2004**

**REGULAR MEETING**

A regular meeting of the Greensboro Zoning Commission was held on Monday, February 9, 2004, at 2:00 p.m., in the City Council Chambers, Second Floor, Melvin Municipal Office Building, Greensboro, North Carolina. Members present were Chairman Gary Wolf, J.T. Higgins, Paul Gilmer, Bill Schneider, Janet Wright, Tony Collins, Maureen McDonnell, Brian Byrd and J.D. Haynes. The Planning Department was represented by Robert Morgan, Assistant City Manager, and Bill Ruska, Zoning Administrator. Adam Fischer represented the Greensboro Department of Transportation (GDOT). Blair Carr, Esq., represented the City Attorney's Office.

Chairman Wolf welcomed everyone to the Zoning Commission regular meeting. He explained the procedures of the meeting. He further advised that the meeting was being recorded and also televised on Channel 13, and was being closed captioned for the hearing impaired.

Chairman Wolf stated that if any person was going to speak on a request, at the appointed time come he/she should come to the speaker's stand and give his/her name and address for the record. He further advised that each side would be limited to a total of 25 minutes, regardless of the number of persons speaking for that particular side. Each side may also have an additional 5 minutes in rebuttal.

**APPROVAL OF THE MINUTES OF THE JANUARY 12, 2004 REGULAR MEETING.**

Ms. Wright said as a secretary, part of her job was to take minutes and she knew how difficult that could be. She said she would like to thank Ms. Decker for a job well done. There was a lot of conversation and that it was hard picking out the important parts.

Ms. Wright moved approval of the minutes of the January 12, 2004 regular meeting as written, seconded by Mr. Gilmer. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, McDonnell, Byrd, Haynes. Nays: None.)

**CHANGES IN AGENDA**

Mr. Ruska said late Friday afternoon, staff received a fax asking that Item F, the rezoning on Randleman Road at Robbins Street, be withdrawn.

Ms. Wright moved that Item F be withdrawn from the agenda, seconded by Mr. Gilmer. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, McDonnell, Byrd, Haynes. Nays: None.)

**PUBLIC HEARINGS:**

- A. AN ORDINANCE REZONING FROM RS-20 RESIDENTIAL SINGLE FAMILY, RS-12 RESIDENTIAL SINGLE FAMILY, GENERAL OFFICE MODERATE INTENSITY, HIGHWAY BUSINESS, AND CONDITIONAL DISTRICT – GENERAL BUSINESS WITH THE FOLLOWING CONDITIONS: 1) USES: ALL USES ALLOWED IN THE LB ZONING DISTRICT PLUS RESTAURANTS (NO DRIVE-THRU) AND RETAIL WINE SALES INCLUDING PERIODIC WINE TASTINGS, CLASSES AND RELATED WINE-TASTING EVENTS AS ALLOWED IN THE GB ZONING DISTRICT, EXCEPT THE FOLLOWING SHALL NOT BE PERMITTED: MINIATURE GOLF COURSE, CONVENIENCE STORES (WITH OR WITHOUT FUEL PUMPS), GASOLINE SERVICE STATION, JUNKED MOTOR VEHICLES, LAND CLEARING AND INERT DEBRIS LANDFILLS. 2) NO METAL BUILDINGS. 3) EXTERIOR LIGHTING SHALL BE DIRECTED AWAY FROM ADJOINING PROPERTIES. 4) APPLICANT SHALL CONSTRUCT AND MAINTAIN A WOOD OPAQUE OR SHADOWBOX FENCE ALONG ANY ADJOINING RESIDENTIALLY ZONED PROPERTY. 5) APPLICANT SHALL COOPERATE WITH THE CITY'S URBAN FORESTER TO PRESERVE EXISTING TREES ALONG ANY RESIDENTIALLY ZONED PROPERTY. TO CONDITIONAL DISTRICT – GENERAL BUSINESS WITH THE FOLLOWING CONDITIONS: 1) USES: ALL USES IN GENERAL BUSINESS ZONING DISTRICT EXCEPT: AGRICULTURAL USES; RESIDENTIAL USES; BILLIARD PARLORS, PSYCHIATRIC HOSPITALS; RETREAT CENTERS; SPECIALTY HOSPITALS; FUNERAL HOMES OR CREMATORIIUMS; TANNING SALONS; TOURIST HOMES (BED & BREAKFAST); LIVE ENTERTAINMENT BUSINESSES, ADULT; MOTOR VEHICLE SALES (NEW AND USED); MOTORCYCLE SALES; PAWNSHOPS; RECREATIONAL VEHICLE SALES; BUS TERMINALS; COURIER SERVICE SUBSTATIONS; TAXI TERMINALS; UTILITY LINES AND RELATED APPURTENANCES; UTILITY SERVICE FACILITIES (NO OUTSIDE STORAGE); AGRICULTURAL USES PERMITTED WITH DEVELOPMENT STANDARDS; RESIDENTIAL USES PERMITTED WITH DEVELOPMENT STANDARDS; JUNKED MOTOR VEHICLES; EDUCATIONAL AND INSTITUTIONAL USES PERMITTED WITH DEVELOPMENT STANDARDS; ADVERTISING SERVICES, OUTDOOR; AUTOMOBILE TOWING AND STORAGE SERVICES; MASSAGE PARLORS, ADULT; REFRIGERATOR OR LARGE APPLIANCE REPAIRS; THEATERS, ADULT MINI MOTION PICTURE; THEATERS, ADULT MOTION PICTURE; BOOKSTORES, ADULT; BUILDING SUPPLY SALES (WITH STORAGE YARD) AND TRANSPORTATION, WAREHOUSING AND UTILITIES PERMITTED WITH DEVELOPMENT STANDARDS. 2) THERE SHALL BE A MAXIMUM OF TWO POINTS OF ACCESS ON BATTLEGROUND ROAD/US 220, THE SOUTHERN ACCESS BEING A RIGHT-IN/RIGHT-OUT AND THE NORTHERN ACCESS BEING A RESTRICTED SOUTHBOUND LEFT-OVER/RIGHT-IN/RIGHT-OUT IN CONFORMANCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) AND GREENSBORO DEPARTMENT OF TRANSPORTATION (GDOT) REQUIREMENTS. 3) THERE SHALL BE A MAXIMUM OF ONE POINT OF ACCESS ON OLD BATTLEGROUND ROAD IN CONFORMANCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND GREENSBORO DEPARTMENT OF TRANSPORTATION REQUIREMENTS. 4) THERE SHALL BE A MAXIMUM OF THREE POINTS OF ACCESS ON MICHAUX ROAD IN CONFORMANCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND GREENSBORO**

**DEPARTMENT OF TRANSPORTATION REQUIREMENTS. - FOR A PORTION OF THE PROPERTY LOCATED ON THE NORTH SIDE OF OLD BATTLEGROUND ROAD BETWEEN U.S. 220 NORTH AND MICHAUX ROAD – FOR JAMES WILLIAM CASE ET AL. (CONTINUED FROM JANUARY 12, 2004 MEETING) (APPROVED)**

Mr. Ruska presented a map and slides showing the subject property, as well as showing the surrounding properties.

Chairman Wolf asked if there was anyone present who wished to speak in favor of this request.

Henry Isaacson, Esq., 101 West Friendly Avenue, said he represented Granite Development Corporation of Mount Airy. The president and chief operating officer of that corporation was present, Mr. Richard Vaughn, and Attorney Isaacson asked Mr. Vaughn to stand and be recognized. He handed up booklets to the Commissioners for their information. He said in Tab 1 of this handout were some proposed amended and new conditions. The proposal was to amend Conditions Nos. 2,3,4 to read:

- 2) There shall be a maximum of two points of access on Battleground Road/U.S.220, the southern access being a right-in/right-out and the northern access to include a restricted southbound left-over and a right-in/right out driveway in conformance with NCDOT and GDOT requirements.
- 3) There shall be a maximum of one point of access of access on Old Battleground Road in conformance with NCDOT and GDOT requirements. An eastbound left-turn lane shall be constructed by the developer at such access point in conformance with NCDOT and GDOT requirements.
- 4) There shall be a maximum of one point of access on Michaux Road approximately 400 feet from the centerline of Old Battleground Road in conformance with NCDOT and GDOT requirement. Such access point shall be a right-in/right-out access with a restricted northbound left-over.

New Conditions shall be added as follows:

- 5) There shall be an additional westbound lane to be constructed by the developer along the north side of Old Battleground Road from Michaux Road to Battleground Avenue/U.S.220 in conformance with NCDOT and GDOT requirements.
- 6) There shall be an additional northbound through lane constructed by the developer on the east side of Battleground Avenue/U.S.220, said lane to extend from Old Battleground Road along the property of the planned development and excluding any property solely for the purpose of meeting City of Greensboro's watershed requirements in conformance with NCDOT and GDOT requirements.
- 7) Developer shall construct a northbound right-turn lane at the southernmost point of access on Battleground Avenue/U.S.220 in conformance with NCDOT and GDOT requirements.
- 8) The developer shall construct separate southbound left and right turn lanes on Michaux Road at its intersection with Old Battleground Road.
- 9) Developer shall provide a 20 foot wide street yard landscape buffer along the west side of Michaux Road from Guilford County Tax Map Lot No. 42 to Old Battleground Road. In addition, the northern 300 feet of such buffer shall be a Type A planting yard in

- accordance with City of Greensboro Development Ordinance Standards with 3 inch caliper canopy trees, evergreen under story trees a minimum of 6 feet in height and all shrubs will be evergreen.
- 10) All perimeter lighting shall be directed toward the interior of the subject development.
  - 11) Any grocery store/supermarket in the subject development shall be located at least 100 feet from the existing western edge of the pavement on Michaux Road and at least 60 feet from the southern property line of the property currently owned by Walter Jessup and wife, Margaret Jessup, i.e., Tax Lot No.3-173-835-42.
  - 12) Approval of a proposed amendment to the generalized future land use map, a part of the comprehensive plan known as Greensboro Connections 2025 by the Greensboro City Council, which request was filed by petitioner on February 4, 2004.

Ms. Wright moved that the amended and new conditions set forth above be accepted, seconded by Mr. Schneider. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, McDonnell, Byrd, Haynes. Nays: None.)

Attorney Isaacson said the amended and new conditions fit into two categories: those which have arisen from discussions with GDOT and those which have arisen from their multiple meetings with their neighbors. He also pointed out the petition to amend the generalized future land use map, which is a part of the comprehensive land use plan, which the petitioner filed on February 4, 2004 to be heard by the Greensboro Planning Board on February 18 and the City Council in early March. The City Attorney's Office advised that the Zoning Commission does not have to pass on this petition. He pointed out that included in their conditions was a provision that makes any rezoning subject to the approval of that amendment to the plan and its land use map. They offered this condition so that the comprehensive plan would not be hanging over your heads in this case and it can be judged solely on its merits as a zoning matter. He recited some of the arguments they made in the petition to amend the plan. He then explained the copy of the zoning map included in the handout and what the various colors represented. He said roughly one half of this subject 24 acre site is either highway business, conditional district - general business or GOM. The remainder is residential. He referred to the aerial photograph also contained in the handout and explained the types of zoning and structures contained in the various numbered sections. He referred to photographs contained in the handout and explained each of them. He called the Commission's attention to the revised site plan for the development. The changes were made as a result of their meetings with the neighbors and with GDOT and he enumerated the changes.

At one of the meetings, one of the neighbors wanted to know if they were going to produce any evidence to the neighbors that this project would not devalue their properties. The applicant then engaged Moore & Taylor, real estate appraisers and consultants doing business in this community. He pointed out a letter from Mr. Taylor in which he had stated: Based on this study, it is my conclusion that the proposed shopping center will not affect the values of the homes in White Horse Farms, Highland Meadows or any other residences in the immediate area.

Attorney Isaacson said this property was located within the Greensboro Watershed Critical Area. Additional acreage to the north of this site will be set aside to meet those requirements and will ensure that such additional acreage will remain as is and not be developed.

Attorney Isaacson said the comprehensive plan and its generalized future land use map as it

presently exists calls for these properties on the northeast and northwest corners to be low density residential, i.e., 3 to 5 units per acre. A large portion of the subject property is already zoned commercial and the northwest corner is also zoned commercial and will be the site of the Eckerd's Drug Store, with a Sherwin-Williams store just behind it. He said he had serious doubts that anyone would downzone this site to change the existing commercial zoning to low density residential, not with the cell tower and poor topography and certainly not with the close proximity to the 60 DNL and the direct heading off of Runway 5.

Attorney Isaacson said this property today contains a hodge-podge of uses and activities. It is a gateway into this City from the north. He thought it would be better as a uniform development as proposed on the site plan, with traffic improvements, good internal circulation and with respect for the nearby neighbors and neighborhoods.

Attorney Isaacson said the revised site plan showed the entire site, except for the watershed critical area requirements, which will necessitate the developer acquiring additional acreage to the north of this site. The developer is dedicated to putting the cell tower in a remote location where it will not be the eyesore that it is today.

Terry Snow, Wilbur Smith Associates, 7015 Albert Pick Road, said he was a senior traffic engineer with this firm with 15 years of experience in traffic engineering and transportation planning. They had prepared a Transportation Impact Study (TIP) as required by the ordinance. He said he would basically highlight and point out the basic improvements, these having been mentioned by Attorney Isaacson. He said the recommended improvements are consistent with the future plans to widen and improve Battleground as part of the NCDOT's TIP project. These improvements would also be consisted with providing restricted movements on Battleground. The Plan of NCDOT is to make that a median-divided facility. Adding in the additional lanes along the southern part of the property to the northern side of Old Battleground would be consistent with the future plans to improve Horse Pen Creek Road and Old Battleground Road. It was not recommended, but based on the input from the citizens, left and right turn lanes will be provided on Michaux as it approaches Old Battleground Road. Although not required, he thought they could actually construct a short eastbound left-turn on Old Battleground at Michaux. The recommendations that they have effectively mitigate the traffic impact of this development and the proposed improvements are consistent with future plans of the NCDOT.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to this request.

A 10-minute recess was taken from 2:50 to 3:00 p.m. in order that the opponents might review documents unavailable to them until today.

Chairman Wolf declared the recess over and asked for the first speaker in opposition to this request.

Roger Green, 3417 Derbywood Drive, said he wanted to speak about this issue in relation to their community, White Horse Farms, his home being near Michaux Road.. He questioned the "harmony" of this project with the community. He said when you are passing and look at the four corners up there, you see something that looks a certain way. Aesthetically, it is probably

going to be an improvement. They met with the developer and had some fairly frank, but cordial meetings, and addressed their concerns. He was under the impression when he left the meeting that Granite is a rock-solid developer and certainly they could do a lot worse, if they have to have a development there. He said Granite had a reputation that they certainly like to uphold. His question was that there were some things they tried to address, but could not address fully and he felt strongly they would probably conflict with the harmony for them. This entrance onto Michaux Road is a big sticking point for him. Right now Michaux is heavily traveled with pedestrian traffic, people walking their dogs or children. If all of a sudden that small, pedestrian road is made into a commercial access road, then you have changed the neighborhood quite a bit in his opinion. His main objection to this project is the curb cut on Michaux Road. Mr. Green then asked if this request were turned down, what would be the other potential uses for the property? Could there be apartment buildings there?

Mr. Morgan said the comp plan called for low density residential, which is 3-5 dwelling units per acre. This designation could support single family dwellings, townhomes, apartments, cluster housing or duplexes.

Levin Frederes, 3500 Old Barn Road, said he was a Highland Meadows resident. He said he attended two of the meetings with the developer and the meetings were not open to the entire community of either White Horse Farms or Highland Meadows. Although he appreciated attending those meetings and conveying the messages to his fellow residents, he did not feel as though the meetings were open to a consensus in the community nor the opinions of a majority of the residents addressed. In the meetings, the developer indicated that it was the DOT rather than the builder that said he would not build there if he did not have access on Michaux Road. The meetings were held with minimum notice and to address a third point, the airport noise was never mentioned by a single resident at any of the meetings. So that should not be an in consideration here. He enumerated several reasons why he and his wife chose to locate in Highland Meadows and said the new construction would mitigate many of those favorable considerations that they had when moving there. Their neighbors told them there was a plan or guide in place that was going to direct future development. Highland Meadows represents \$10 million in real estate, according to his builder, so it is a sizeable development that will be going in place for the tax base. Rezoning of the areas requested would be contrary to that plan that he reviewed when he selected a home in this area. He too was opposed to the increased traffic on Michaux Road. In his opinion, Michaux Road for any commercial use represents a danger to the residents who are there now and a fundamental change in the dynamic of the community, which he did not think, even following the guidelines of the comprehensive plan loosely, is in the best interest of the people.

Edward Eaves, 3413 Derbywood Drive, said the proposed plan disregards the land use plan for the City of Greensboro for the next 20 years. It should be given consideration for what it is - a plan for development that should not be followed to the letter of the law, but a valuable tool in considering what is best for the City as a whole. The new development would be an eyesore to the residents of White Horse Farms and Highland Meadows. It is out of character with the area and improper in its positioning. The developer has made conditions to prevent watershed problems. However, the property previously built on this site already has required watershed modifications and modified conditional zoning district because the rules were not followed, not once, but twice. There would be a dramatic increase of traffic and noise in the area. Since this area has a high degree of pedestrian traffic, the additional traffic would pose a danger to these pedestrians. In the Brassfield-Battleground area, there are already signs that the region is not

conducive to the type of businesses that the developer is proposing. Besides the obvious fact that the nursery and strip mall, the commercial properties already on site, have both failed, there are several businesses in this region that have had to close recently. Within the 18 months that he has lived in the area, there has been a Food Lion, Phar-Mor and sit-down restaurant that have gone out of business. Of these major empty buildings, another tenant has filled only one. The developer and his attorney have alluded to the need for this development for economic and employment purposes. The only jobs brought into this area by this development would be low wage, service jobs, something the neighborhood and the City do not necessarily need to survive. The types of businesses suggested to be built in this project already exist in the area and are plentiful. All this development will mean is the reapportioning of the money that is already going to the same types of businesses in this area. There would be a potential increase in crime and/or vagrant activity in such a large shopping center. The area is already considered a prime target for criminals with the BP station on Battleground being robbed at least 3 times in the past few months, the Winn-Dixie on Lawndale several times, and other assorted businesses and homes in the area are being the victims of property crimes. There will also be the potential of falling property values in this area, should this new project be approved. Already potential buyers are giving negative reviews and being scared away by the threat of having this development and its construction ruining the value of their homes while our taxes are increasing. He said he applauded the developer for working with the residents to make the development more area friendly. However, he did not appreciate him assuming that placating a few residents will appease all of them. There was no attempt on their part to request input from the neighborhoods as a whole nor was there even an attempt to seek out opinions from more than a hand full of people. Even more galling to him that that slight by the developer was his attempt to win approval by using a simple blackmail scare tactic. In discussion with the residents, it was alluded that there was only one other development plan in the works for the area in the event that the shopping center did not gain approval. The developer blatantly suggested that if the center were not approved that low income, Section 8 housing would be built on the property instead. He said he was not in favor of low-income apartments on the property for the same reasons that he was against this center. The more upsetting issue to him is the method that the developer was using to quell any unrest in regards to the shopping center. He has scared residents into feeling that the shopping center would be in their best interest. He submitted a petition from the people in the neighborhood with 160 signatures.

Bruce Dickinson, 5013 White Horse Drive, said he was one of the folks who attended both meetings held by the developer. His concern was the traffic flow. He said Mr. Snow had stated that the traffic change would be negligible, but the intersection there would change from a low B intersection to a high C. He said this was one of the worst intersections in Greensboro already and a change from a low B to a high C intersection surely would not be negligible. He had some questions regarding how some of the new turn lanes would work and felt their impact would be less than desired. He also had problems with the access on Michaux Road.

Charles Cranfield, superintendent of the Guilford Courthouse National Military Park, Old Battleground Road, said the National Military Park is the site of a very important battle of the Revolutionary War. That battlefield is now divided in two by Old Battleground Road. It bisects the first and second lines of the battle. According to a traffic count done by Barton Ashman for the Park in 1997 (they are part of the Park and its transportation group), at that point, a traffic volume of approximately 10,100 vehicles per day transited the park on Old Battleground Road. The Park received approximately 650,000 people last year and most of those visitors had to

cross Old Battleground Road by foot, bicycle or automobile to tour the park. Needless to say, the National Park Service is concerned of any possible increase in traffic congestion on Old Battleground Road. Although the traffic analysis for this proposed development did not go as far as the Park, analyzing only as far as the intersection of Old Battleground and Lake Brandt Road, it does call for an increase of traffic at that point by approximately 7.5 percent. If that 7.5 percent projection were extended 500 yards it would need to get to the Park, that would mean an increase of approximately 750 vehicles per day through Old Battleground, through the National Park Area and that will only exacerbate an already dangerous and congested area. He said he came to this Commission from the National Park Service, a Federal agency that takes very seriously its charge of preserving America's national and historic treasures for present and future generations. They strongly believe in planning. To circumvent, amend or approve exceptions to their plans is something they take very seriously. The City now has a comprehensive plan created by professional planners with public input and approved by the City, which takes into consideration the quality of the life of the people, the commercial environment and the integration and balancing of the two. Please do not take the City's plan lightly. The future of Greensboro and the quality of life for present and future generations of residents are at stake.

Allen Hedrick, 4221 Wades Store Road, said he was opposed to this request for environmental reasons primarily. Also, they do not need another shopping center. The developer has presented this as a situation where there is simply no other way out. He said they are smart enough to think of a creative solution, and a shopping center is not creative. Let's do something different.

John Alexander, president of the Center for Creative Leadership, 1 Leadership Place, stated that they have had their location on Battleground North/U.S. 220 since 1970. They employ over 350 people at their location and they bring in a couple of thousand visitors and participants to their activities and programs from around the world each year. He wanted to make two points. One was that he did not know all the details of this proposal, he had not been to the meetings and he just learned of the size of this project yesterday reading the newspaper. He was concerned about a change in the zoning regulations, which would require an amendment so soon to the comprehensive land use plan that would allow a development of this type to go forward. He worried about the precedent it would set for further commercial development on Battleground North going out to Bur-Mill Park on the one side and going out virtually to their entrance on the other. His second concern had to do with the additional traffic that this project would generate. He reiterated some of the same concerns as had been given by previous speakers.

Carol Owens, 3608 Haynie Manor Lane, which is off of Michaux Road, said Mr. Perkins did call her so he obviously wanted to talk with her about this development, but she opted not to enter into those conversations. She was also invited to come to the meetings with the neighborhoods; she opted not to do that as well. She owns approximately 7 acres and the stream that is on this property feeds into her pond, which feeds into Lake Brandt. Over the past 5 years due to the new development in the area, her pond is filling up with silt. She did not know where this was coming from, but she was very concerned about it. She did not want to see this project go forward.

Chairman Wolf said the proponents could have 5 minutes of rebuttal time, if they so wished.



Mr. Snow, traffic engineer for the project, said he had a couple of comments about the traffic. The TIP indicated that with the proposed improvements to intersections in the area, operating level service D or better during the p.m. peak hour, would be achieved. He said it was true that their projections indicate that 7.5 percent of the site traffic will, in fact, be coming from the south and east, predominantly through the Park area. However, 70 percent of the traffic that actually approaches Lake Brandt on Old Battleground Road in fact turns onto Lake Brandt. This site, as currently zoned, if developed by someone else, will generate an appreciable amount of traffic. They did not analyze the traffic based on the net increase, but understand under the existing zoning a certain amount of traffic will be generated by that development. He said as to Michaux Road, their TIP, basically coming from the east, provides an alternative access. A majority of the traffic is, according to the demographics in the area based on current retail establishments, will actually be coming from the north and from the west. He said the developer did not come in specifically and tell him where the access points should be. It was a part of the site plan originally. He said he could not speak on behalf of the client/developer discussions; he could only speak as to the TIP.

Adam Fischer, transportation manager and engineer for GDOT, said they felt it would be a very good idea to have the access on Michaux Road, primarily for the neighbors to access in and out safer. It would be a safer place for them to get out versus having to get out on Old Battleground Road to make an unnecessary movement when they could simply access their neighborhood in and out. GDOT really does not foresee a lot of other traffic using that entrance from Old Battleground.

Ms. McDonnell said there had been an interesting dialogue between Mr. Wolf and Mr. Higgins about consistency in our decisions based on some sound principles. So she was curious as to why that was a finding of fact for that rezoning, which was very similar to this one, and, in fact, this time, even though the neighbors obviously don't want that access point, staff is saying that it's good for the neighborhood to be able to access them when, in fact, it is going to have the same affect as it had in the rezoning with Wildoskey, which is to change the nature of that road from residential to commercial. She said she had not heard that before and said to herself that she needed to keep that in mind for future zoning decisions so that we can be consistent. She asked Mr. Fischer if he could respond to that at all?

Mr. Fischer said he was not aware that that was a City recommendation. It would not have been his recommendation.

Rick Vaughn, with Granite Development, said as it relates to the design of the center, with any design of a shopping center, your objective is to get as many access points as you can. In this particular case, they did show 3 access points onto Michaux to begin with. Due to discussions with the neighborhood, it became very apparent that that was a concern. So they removed two of those access points. As it relates to the development, they would probably not walk away from the project if they did not have that access point on Michaux. It does allow for a better flow within that development based on the design of the development to have one access point that will be very limited in its use, per GDOT and all their evaluations of it. But it does relieve some of the traffic coming out onto Old Battleground and coming back to that stoplight. That is a point that can certainly be reviewed further.

Mr. Haynes said GDOT had said if this project were developed under the present zoning,

which would increase the traffic. He asked for an explanation of this statement.

Mr. Fischer said basically there was a development there now, but it has been under utilized. Now the existing development in that quadrant is basically dormant or being under utilized. If someone should come in under the current zoning and wish to redevelop that project, it would, in fact, by the sheer nature of being retail in that particular area, generate traffic. It is kind of like the site of a building being abandoned. It is not generating traffic today, but if someone came in and basically started another business, you would see traffic volumes go up overnight. That was what he had been referring to.

Mr. Higgins said all the analysis about traffic used the term being "generated." Is the Commission to assume that they are talking about the number of vehicles that would be going in and out of this development and how does that relate to the traffic that would be going past this point to get to other development further down Battleground? In other words, if someone is coming off of Horse Pen Creek Road and making a right-hand turn onto Battleground to head south to go to the Bi-Lo or the Brassfield Shopping Center or whatever, if instead of going down there, they were to stop at the shopping center at the northeastern intersection, that is no increase in traffic. In fact, arguably it is a decrease in traffic. Any kind of analysis about where the traffic flow would come from for this site as opposed to what it is today.

Mr. Fischer said that was a very good point. He said basically with retail-type traffic or commercial traffic, a large percentage of the traffic is already on the road. It is just going some place else. So, in fact, you are redirecting and basically going in and taking it in a different location. What the demographics are showing, the majority of the new trips, if you would, for this center would be coming from the north and from the west, but not necessarily from the south because there is adequate service in the area. So what GDOT thinks is going to happen, and based on the traffic analysis, is a lot of the turning movements are actually going to take place as the traffic patterns change. They would happen in that particular quadrant from the west and from the north. What you would find is a lot of the folks who are coming from the north and west are currently patronizing centers to the south of this type, would actually not go further south because they have better options or more predominant options to the northern portion of the City.

Rich Vaughn returned to the podium and said he would like to offer the condition of removing that access point on Michaux from the plan and that can be amended at this point.

Mr. Byrd moved that the additional condition of removing the access point on Michaux Road be approved, seconded by Mr. Higgins. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, McDonnell, Byrd, Haynes. Nays: None.)

Mr. Collins said that if this were approved and in the design process, some of the adjoining property owners decided they wanted to put that back in on Michaux Road, which he believed they will, how would they go about that?

Mr. Ruska explained that you could only make an application more restrictive; you cannot make it less restrictive.

Mr. Collins said he appreciated the applicant's intent; they were trying to work with this.

However, he truly believed if this goes forward that the neighbors will be disappointed there is no access there and he thought they needed to know that now. He said the one that was mentioned on Wildosky, he lives in that neighborhood and a good many of the people there now wish they had an access to that shopping center.

Chairman Wolf said the opponents could have 5 minutes of rebuttal time, if they so wished.

Bruce Dickerson, 5013 White Horse Drive, said with respect to the cut, he thanked the applicant for doing that for them. That did give them some impact. He still had concerns over the amount of traffic this will generate for this area and the safety of that. One other thing that the TIP did not take into account is that there is further development going on down Michaux with a plan for another 100 or 150 houses between a couple of developments for which this will still be the primary access out of that area. He was not comfortable with the traffic studies that had been done.

Tammy Callis, 5228 Michaux Road, said that Mr. Vaughn had been very nice meeting with them, although she knew it was in his best interest that he did that. However, she said she would like to say that when he was asked if this exit were taken away, would he abandon the project, and he said yes. She also had an objection to looking at the back of all of the stores.

Michael Brandt, 4900 White Horse Farms Drive, said he wanted to bring the Commission back to the whole purpose for this. The City has a land use plan that was adopted with great fanfare. It indicated that this area should be low density residential. No one is arguing the fact that there is existing commercial that could be redeveloped. The point is that this site is 24 acres in size; it is 140,000 square feet of retail or over 3 acres of retail space. The land use site plan is not a condition of the development, just the conditions of transportation. They can dump all 140,000 square feet into a single building, if they so chose. That is a big difference from a neighborhood shopping center. Please remember the land use plan and follow it as best they can. Allow the redevelopment, but do not allow this sort of expansion. It is well too large for this area.

Mr. Morgan said the request is contrary to the Generalized Future Land Use map of the comp plan, which calls for Low Residential (3-5 dwelling units per acre) for the entire northeast corner of Old Battleground/Battleground intersection. This designation could support townhomes, apartments, cluster housing or duplexes. The comp plan calls for the protection of Natural Resources. This request is within the Watershed Critical Area Tiers 3 and 4. The development in the area should be sensitive to the environment. The comp plan states, "The predominant land use designation in this area is low residential because of the environmental constraints associated with the Watershed Critical Area." The Tier 3 portion is restricted to 30% built upon area with Best Management Practice (BMP) and is limited to 60% disturbed area. The Tier 4 portion is restricted to 40% built upon area with BMP and is limited to 75% disturbed area. Based upon a draft plan discussed with Stormwater staff, the actual development is proposed to be concentrated in the southern portion of the site with the northern portion, including some land currently in the County, which is not included in this rezoning request, remain undisturbed to meet the land disturbance and Built Upon Area (BUA) limits established in the Development Ordinance. There is a perennial stream in this area that will require an undisturbed buffer. The comp plan discourages "strip" development and encourages "...more diversified mixed-use centers rather than stand alone shopping centers or expanding highway commercial "strips". This development continues the traditional "strip" development pattern that currently exists south of Old Battleground. Staff feels there is

sufficient commercial zoning and development to the south with an existing Activity Center already designated in the Battleground Avenue – New Garden Road area. According to generally accepted planning principals land uses should transition down in intensity as they approach the edge of the city so that the edges of the cities/towns remain distinguishable. Due to this property nearing the edge of the City the continuation of commercial does not achieve the desired transition. This rezoning would make the Northeast corner the largest commercially zoned area of the entire intersection. We recommend that this corner remain zoned as is and encourage the existing commercially zoned area to redevelop as one cohesive development providing an opportunity for neighborhood services that could include a mix of residential to rear where it is currently zoned residential. This concept is supported by the comp plan, which encourages the mix of uses and the "...protection against incompatible commercial encroachments into residential neighborhoods." When this matter first appeared on the January Zoning Commission agenda, staff made a recommendation to the applicant that based on the conflict between the Generalized Future Land Use map contained in the Comprehensive Plan and his proposed rezoning it may be more appropriate to seek an amendment to the Comp. Plan. The applicant heeded our suggestion and has applied to the Planning Board to amend the Plan. The Plan amendment was submitted on Friday, February 6<sup>th</sup> and will be analyzed by staff prior to the February 18<sup>th</sup> Planning Board meeting at which time the amendment will be considered. The Planning Board recommendation will be passed along to the City Council for their consideration, tentatively scheduled for March 16<sup>th</sup>. In the meantime, staff has taken a closer look at this area and feels that a change in the land use designation on the Generalized Future Land Use map of the comp plan is warranted. Staff is considering a recommendation to change the Low Residential to Mixed Use Residential on the north side of Old Battleground/Horsepen Creek. It is felt that a well-integrated mix of residential and local-serving commercial in scale with its surroundings is the more appropriate land use for this area. The Planning Department recommends that this rezoning request be denied.

In response to a question from Ms. McDonnell, Mr. Morgan said the comp plan did not look at these areas in detail, it was a broad brush. In looking at that intersection and seeing that part of the property is already zoned commercial and as stated, someone would not come in and request a down zoning. With the commercial and the residential zone, a mixed use residential would be appropriate at this intersection. So staff would recommend to the Planning Board for this side of the intersection that it be a continuation of what is on the south side of Old Battleground and that is a mixed use residential. The way the plan defines "mixed use residential," it would be a combination of commercial that would be more neighborhood serving as opposed to a regional serving and that the commercial and the residential would be compatible with each other and they would work together. That could include apartments, townhouses, the same type of housing that was discussed before. The current proposal does not meet that definition as the plan intended.

Mr. Collins said when Mr. Cranford was talking about the National Park and talking about the through traffic, through Old Battleground, thinking from one part of Battleground to the other part of Battleground, was it not part of the Painter Boulevard area that Old Battleground past the park approaching Cotswald will become a dead end and will ramp up onto Painter Boulevard and, in effect, will not continue through?

Mr. Fischer said he believed the plans are that it wouldn't be a continuous shot as it is now, but you would still be able to continue through there.

Mr. Collins said you would have to go up to a stop sign on Painter Boulevard, cross over and come back down.

Mr. Fischer said it would be some configuration like that. In effect, it will not be a continuous road like it is now.

Mr. Collins said for the Park, that solved for him a lot of the problems that they were posing. If you live on Old Battleground, that is going to eliminate a lot of the traffic that you get of people purely cutting through, not people living in the area. He asked if that would be 2008-2009?

Mr. Fischer said the latest thing they are showing is still after 2008, but he thought it could still be further out than that.

Ms. Wright moved an ordinance rezoning from RS-20 Residential Single Family, RS-12 Residential Single Family, General Office Moderate Intensity, Highway Business and Conditional District-General Business with conditions to Conditional District-General Business with the conditions as set forth in the application plus those added above, seconded by Mr. Gilmer.

Mr. Higgins said he hoped they were not trying to cut off the discussion here.

Mr. Higgins said first of all he thought this was a very important case for a number of reasons. The impact this has on the neighborhood is a very important consideration. He often thought of the Caldwell Square Development that was done years ago and the neighborhood opposed that and then after it was built, many people in the neighborhood moved into Caldwell Square. That is not to denigrate the concerns that the neighbors of this development. After all the testimony today, he did not think that he had a really good feel for the traffic impact. When he looked at the overall plan, it appears to him that arguably this development will reduce much of the existing traffic on 220 by keeping people who are coming from the east and west from going further south on Battleground and, in fact, people to the north that are still south of the lakes are heading south anyway to go to the shopping down towards Brassfield. So he was not really convinced that the traffic would increase all that much for this immediate area. But that brings in the whole concept and interplay of zoning with the comp plan. He thought this case had made everybody focus on and analyze what the true impact of the comp plan is and how it relates to zoning. He viewed the comp plan as being very important and he did not think that the Commission should, by saying that it is a generalized application of land use categories, use that as an excuse to ignore it and say this is a specific site and, therefore, we can focus on the immediate issues and basically forget the comp plan. He did not know that 10 acres is the fair threshold for having to modify the comp plan in order to get property rezoned. The community can address that. But right now he believed the way it was drafted, if it does involve more than 10 acres and conflicts with the land use plan, he did think the comp plan at this point needs to be amended. Anything that is this extensive and comprehensive is not going to be tightly drafted and it cannot be, so we are all in the learning process. That being said, he said he certainly did not think this property should be rezoned without modifying the comp plan. At the same time, he was really at a loss. If we are really thinking about what our staff right now is saying, as he understood it, mixed use would really be the best use for this site. And yet the way the procedure is drafted, he did not think the Zoning Commission has anything to do with modifying the comp plan. Is that correct?

Mr. Morgan said that was correct.

Mr. Higgins said that here the Zoning Commission was sort of part of the process, but they are not part of the process, and he was really at a loss as to how to address this issue in this particular zoning, given the fact that both the staff and the applicant think that the comp plan needs to be changed from what it is, and yet this Commission is supposed to be dealing with the rezoning based upon what - a comp plan that is going to probably change in some fashion and yet this is a Conditional Rezoning, conditioned upon the comp plan being modified.

Ms. Wright said there are those procedural things that have to happen, both at the Planning Board and City Council levels. So she finally decided that she could reconcile her decision by looking at it the way we looked at it before. We take into consideration, of course, the comp plan as a part of the staff's recommendation to us, but she was looking at this as a land use issue. That is ultimately the ball that this Commission has its eye on. From a land use standpoint, does this make sense on this particular piece of property? They made that amendment to their application so that whatever pieces have to be addressed at the City Council can still be done. She was wondering if it would be superfluous to add to the motion that this motion is contingent, or is that not necessary?

Chairman Wolf said that contingency is already contained in the request.

Ms. Wright said she was looking at this as in the good days, as a land use; does this zoning make sense on this piece of property?

Mr. Higgins said he understood what Ms. Wright was saying, but at the same time, he had not analyzed this in detail in his own mind and really thinking about land usage as a mixed use. He said he had to say that as it strikes him, his initial reaction would be that that would be his recommendation, that it be a mixed use and it could really fit in very nicely. But we haven't been asked to evaluate that and right now, it seemed to him the Commission is being asked to choose between a true hodge-podge and a commercial use that they think might not fit as well as the mixed use. We don't know that, in fact, this would be modified and be a mixed use under the comp plan. He said he thought if it were modified and they wanted to get it rezoned as a mixed use, it would be very likely to go through. But we are voting today on a use within the existing zoning choices, conditioned on its being modified under the comp plan.

Mr. Morgan said he would just like to point out that in the future, the normal pattern would be that the Planning Board would consider the amendment to the comp plan and then rezoning would be brought to the Commission to consider so you would have the information. That would be the logical way to present it. But in trying to accommodate the time frame of this application, they had agreed to do it simultaneously and he apologized if it put the Zoning Commission in an awkward situation.

Ms. Wright said somebody said they thought it was wrong to change the plan so soon and, frankly, this is when you work out the kinks when you are first implementing it. She said she could just say three letters, U.D.O., and what they went through then.

Ms. McDonnell said if it went through Planning first and they will have a chance to say does it make sense with what we have in the comprehensive plan, or do we not need to tweak that.

Then if it comes to us and it's Tuesday and the sun is shining, you need to think of it this way, and so forth. To her, if it goes to Planning first, that actually would give this Commission more direction as far as they have looked at it in detail now and made a decision about what makes sense in that area truly, not the broad strokes, but the more finite. She said the Commission no longer has to do findings of fact, but those were guiding principles. Is it in harmony, etc., and she was still following those. We should not abandon those in spite of having the comp plan, but just add to it.

Mr. Byrd said he thought perhaps they were focusing on the trees and not the forest. He would say that regardless of what the process is that we follow for amendment of the comprehensive or the generalized future land use plan in those instances where rezoning is inconsistent with that plan, effectively the comprehensive plan has made our decision a recommendation because ultimately the City Council is going to decide whether that use is appropriate or not.

Ms. McDonnell said that was similar to annexations.

Chairman Wolf said he didn't think it goes that far. He would post a hypothetical: They all vote in favor of this thing today. The City ordinances say that's fine, unless appealed. So to say that that is a recommendation is the wrong word to use because if everyone here approves this today, if no one appealed, the only issue then to decide is the plan amendment and it doesn't even go back to Council for the use. All it talks about is the plan amendment. So we are still a final decision today conceivably one way or the other, except for the plan amendment.

Mr. Byrd said his understanding was that a rezoning could not be finally approved unless the generalized land use plan was amended to be consistent with that rezoning.

Counsel Carr said that was not correct. You would simply have a rezoning, if approved by the simple majority of this panel, and then not appealed to the City Council. That would, in fact, be a rezoned piece of property. The applicant takes the risk though that if that amendment to the comprehensive plan does not pass City Council, he essentially has a condition on his property that cannot be fulfilled and he cannot meet the letter of his conditions for this rezoning and has to come back to this Commission and start all over again. So although it is rezoned, as Chairman Wolf said, the applicant cannot fulfill all the requirements of that rezoning and that is a burden that the applicant has chosen to take.

Chairman Wolf said he was not sure this whole scenario was going to change that much in the future because reasonable parties, developers, the City, the neighbors, even this Commission, can disagree with respect to whether the comp plan says yea or nay on a piece of property. So we could still see this same issue on properties that are out at that fringe area or even areas that everyone assumes further in town under the comp plan was going to be one way, but the market drives it another way. When he looked at this, he never envisioned that that line on that drawing was going to be treated as if it decided what went on that property.

Mr. Schneider said it was this late and we just talked about "broad brush." It's like someone when they are painting that map put the brush in the middle of Old Battleground and anything on there now cannot be residential. He thought it was at this time that we start talking about it as mixed use because in the plan as it is, it is low density, it is not mixed use.

Chairman Wolf said when he looked at mixed use, it talks about neighborhood shopping

centers being mixed in with residential to serve the adjacent neighborhood. When he looked at all the rezonings we have done on Horse Pen Creek and the amount of residential we have created down that road, we are forcing a ton of traffic to go all the way down Battleground or way up Battleground to Summerfield to do neighborhood shopping. So there are two sides to every argument here. He just never perceived that drawing that is in this massive book right here as being determinative of what we do with that corner. He was sure if they were to ask Mr. Gilmer, who participated in a lot of those hearings, he did not think that drawing was ever handed out to those masses that worked on the plan and said approve this layout. That drawing was what the Planning Department and its consultants thought was a reasonable plan; was it not, with input from the public? But he could not imagine that they had all the public, such as Mr. Gilmer, looking at that drawing and saying that they agreed with that line.

Mr. Gilmer said Chairman Wolf was correct. He came to the meeting today with darned if I do and darned if I don't, kind of put in the middle. But he thought that the deciding point for him was when Mr. Morgan made the statement that staff will probably be making a recommendation on the change on that corner, so evidently that made the decision for him a little easier. So probably what he would be doing would be voting for the comp plan to be modified for that piece of property and whatever happens after that has to happen. But they did not go around individually and look at all these pieces of property. They did have a lot of input from some members of the group, as well as staff and the consultant. Some people were more up-to-date on different intersections in the City than others. But the comp plan was supposed to be a guide. He was sorry that it ended up looking like developers' hands are tied. We are probably going to have to look at something else other than two years of modifying the comp plan. The reason why they had only two times a year that the comp plan could be modified by two cases per year or whatever was because they wanted all the developers coming in at one time. They wanted the comp plan to work, they wanted it to be a guide, but it seems like we have some problems. He knew that Greensboro being the great City it is, they could work through it.

Mr. Higgins said he thought they all needed to, as a community and there is still a long ways to go on this, really understand the interplay of the comp plan with the zoning ordinance. To him, one of the generalized differences that he made in his mind between the two is that the comp plan takes into account, if nothing else, a much broader geographic concept as to land use. So that you are really thinking about radiating retail where you want it in a general sense. Look at the photographs we get at the initial introduction of these issues, they are all adjacent immediate properties. We can talk about traffic a quarter of a mile away, but we don't talk about "what is the impact of this vis-à-vis what is going on a mile or 2 or 3 miles away? What is the big picture?" So to him that was what he saw in the comp plan; it really is looking at the City as a whole, how do we want the City as a whole to be developed? There is no way that anybody can convince him that individual parcels were identified in the comp plan process with any kind of in depth analysis like we are doing on the zoning on this property today. So he thought the Commission had to understand the interplay of the two. He thought clearly low density residential for this entire site was just nuts. That makes no sense. He thought this should be either commercial or mixed use. The comp play to him was not a guide on this particular site today. He said he did not consider this shopping center to be simply an extrapolation of the strip development along Battleground. To him, this is an organized site that, instead of stringing it out 200-300 feet deep along a street, provides a controlled access situation and is much more organized than what you get with a driveway every 200 feet along Battleground Avenue.

Ms. McDonnell asked that when an application comes to Planning for review, what criteria



would they be reviewing? In other words, the comp plan is an exhaustive multi-year process involving public input and so forth. Are any of those components relative to this section going to be revisited as part of that decision-making process or how does that occur? Ms. McDonnell said her concern was that it is always going to hit new information, but if we have got public feedback on the area and she knew that there were calls for people to come and look and see the plan and give feedback. Some of the decisions, she would assume, were made based on that open door policy was her thinking actually. So when an amendment is made, does any of that history get revisited or is it solely going to be based on what people are currently saying?

Mr. Morgan said in the comp plan where it talks about the amendments, and it is Section 10.4.2, it identifies the criteria that are to be used in making the analysis. That is what the applicant used to make his statement for the change and that is what the staff will use to make their recommendations. There is not a call for an in depth public review process like the comprehensive plan or anything of that nature.

Ms. McDonnell said she was not saying there should be another public hearing, she was saying take the information from the public hearings and will that be reviewed? Why did we do that if we are not going to use it?

Mr. Morgan said he thought that the comprehensive planner has a good knowledge and history of the sections of the plan and certainly her information will be used in making that analysis.

Mr. Byrd apologized for dragging this out even farther, but he said he wanted to go back to his question regarding the interplay of the comp plan and the zoning ordinance just so he would have a clear understanding of what they were doing here today. The comp plan in 10.3 says that in cases where a proposed development larger than a specified magnitude is in clear conflict with the comp plan, such approvals may not be granted until and unless the comp plan is amended. Now that means to him either one or two things: One, the amendment to the comprehensive plan has to go through the amendment process completely and then you come back and get your rezoning, or two, you process the comprehensive plan amendment and the rezoning at the same time such that this Commission makes a decision as to the rezoning, then it goes to City Council, which considers the amendment of the comp plan and the rezoning because the rezoning cannot be granted until that plan is amended.

Chairman Wolf said or three, which was what he thought he saw here (and he was probably the lone person), is he did not see the word clear here because he thought you were always going to have this kind of circumstance when an applicant states that this isn't clearly in contradiction of the comp plan. He personally did not think it was. This was never what he envisioned to be the piece of property that would be a so-called "test case" for amendment of the plan. We have had other things that have come before us that were somewhat inconsistent with the plan and the Planning Department was in favor of it. So this is a piece of property that is part commercial/part residential and he never envisioned this fringe piece being the piece that we have this battleground over and he thought that was why they had a hybrid situation here where we are hearing this at the same time this applicant is trying to go through Council because it is a difficult piece of property and it really doesn't fit into the exact language of the comp plan. He said he did not see it as clearly contradictory to the comp plan.

Mr. Higgins said his only problem with that was he did not understand what the language dealing with the 10 acres has to do with anything, unless it does provide a trigger here.

Mr. Morgan said he thought the 10 acres are the key in this issue. He thought where you have potential problems in the comp plan is where the uses meet and that is exactly what we have here. There are definite geographical lines on the page that says this is one area. The key was 10 acres and in the other cases, they were one or two acres and we had some flexibility there. He would like to say that the Council has indicated that they want to revisit the amendment process because right now what was envisioned in the plan is that twice a year, they would take as many amendments as they received to the Planning Board and then to the City Council. He thought the Council has indicated that they would like to review the number of times that's done. He thought Council would like to look at the acreage, what triggers the amendment issue, and they have sent out a series of questions to get feedback from the Council and that amendment will be coming.

Getting back to Mr. Byrd's question, Mr. Morgan said he thought the key was when they began this two months ago; they told the engineer that they felt this was in conflict with the comp plan. The applicant chose to proceed. As a courtesy to the applicant, he asked Mr. Ruska to send a letter and say, "What we are going to be recommending Monday is that this not in compliance with the comp plan." The significance of that is if it were to proceed, you voted so that it did not go to City Council, if someone opposed it and took it to court, you would be giving them the perfect grounds to override the rezoning because it is very clear in the State Statutes that if the comp plan and the rezoning are not in agreement, then the rezoning can be overturned. So that is part of the answer. You could approve it, it could be appealed to the Council and if the Council agrees with you, then we have a legal situation, if the opponents wish to take it to that level.

Ms. Wright said she thought City Council had a lot of work to do on this. Certainly the Commission needs to move ahead on this request. That was the first she had heard of in terms of the legal situation. So again what she was going to do was focus on the land use. And on this particular issue, at this point, that is all we can do and turn those other things over to the Legal Department and to the City Council to make those changes that are necessary to make this plan work. She did not believe the Commission should throw this plan out, but she did think some fine-tuning is in order. Again her eye was on that ball, this is land use right here, right now, and she was prepared to vote now.

Mr. Higgins said he was as ready to vote right now as at any other time. He did not like voting on the zoning on this today. He did not like the choice that we're voting on something that, in his opinion, for what it was worth, does not comply with the comp plan. At the same time, he thought the comp plan itself is clearly wrong. To him, he felt like Alice in Wonderland, He would frankly have preferred that if we are going to use 10 acres as a threshold, fine, let's do that. Let's revise the comp plan first. In looking at the comp plan too, one thing he wished everyone would look at (and that is going to take more time than this case) is have we made some of these categories too finely tuned? Should the categories be defined in perhaps some different way like taking into account scale of what goes in there, not just the usage and that sort of thing. He knew one rumor that was floating around for the last several weeks was that it was going to be a Wal-Mart Superstore. So perhaps one thing that needs to be incorporated into the comp plan is the concept of scale. There is a difference between retail and mega retail and so forth.

Mr. Schneider said the one point he had was are the 10 acres going to be too low of a threshold when we get out to the parts on the outskirts when we are looking 10 years down the

line? There we have vast acreage.

Mr. Morgan said the significance of the 10 acres is just when the amendment process kicks in. So that was what the consultant and the marketing people felt; that was a significant piece of property. So you could make that 20 or 50 acres.

Mr. Schneider said he was saying that in town like this, 10 acres is a large parcel, but when we look on the outskirts, like on the part that's 10 years out and developed in 20 years out, 10 acres may not be a big chunk.

Mr. Collins asked if there was currently a plan to improve this intersection that the City would do itself without private development doing it? Is that in a time frame for the next 3,4,5 years - additional turn lanes, improved flow at that intersection? Is there anything planned that is immediate or within the next few years?

Mr. Fischer said not immediately. The NCDOT is going to improve Battleground north of there, starting in approximately 2007-2008.

Chairman Wolf said that was part of the problem Greensboro has. This is not to criticize GDOT, but we have many roads that citizens come in here and all of us who drive them say that we have problems on roads. But the City tends not to spend money improving roads. We wait for the developers to do it for free. Wendover was a good example of that. Some might disagree, but he thought the Wendover side of town leading to I-40 is the best it has ever been, but we waited for a developer to put in all those concrete controls down the center that made it much safer. The City doesn't seem to want to spend the money to direct the traffic and make things a little safer and a little better. He said he could see Mr. Fischer's face and he knew that they disagreed on that, but the times he goes through Wendover now, it is a lot safer than it used to be because you do not see cars cutting across in front of you at all sorts of places.

Mr. Collins said he agreed with what Chairman Wolf said. He was not slapping the City for not doing roads, but a lot of it does occur when development happens. That is sort of his thing. He is a user of this road; he lives within 2 miles of this intersection. He has lived in that area for 45 years. He felt sorry for the neighbors that they think this will be something that will be bad; it will impact some. But he believed it would actually be an immediate improvement, once this is in place for them. The traffic will be improved. You can talk about additional traffic, but a good example is many of you who have lived there, if you have lived there long enough to remember when Horse Pen Creek Road came onto New Garden Road as a 2-lane road. But traffic would be backed up for 2 miles trying to get onto New Garden Road. With the improvements, with Bryan Boulevard coming through and now Painter Boulevard will be within one mile of this intersection. He said he hated to tell the residents, but town was coming to them. We need to go ahead and control traffic. In this development, there are very few places along Battleground

Avenue where you've got 24 acres to do truly a nice quality development. The problem with Battleground is that it has been small residential lots that were 1/2 acre or just a little bigger that were developed into little small things. He did not know how many curb cuts there were. But the biggest thing he saw that helped him with this, and he really had a problem with the curb cut they took off Michaux Road because he really believed of 100 people in the room today, 99 of them will not like that in two years from now. He thought the traffic here had been controlled well, he thought it would be a good, quality development. He did not mean to be

sarcastic, but he was not aware of the City having a plan to buy this property to make a monument to say, "This is the entrance to Greensboro." He said he would be voting in favor of the request.

Chairman Wolf said there was a motion on the floor made by Ms. Wright and seconded by Mr. Schneider. The Commission voted 7-2 in favor of the motion. (Ayes: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, Byrd. Nays: McDonnell, Haynes.)

Chairman Wolf said there would be a 10-minute break.

**B. AN ORDINANCE REZONING FROM RM-18 RESIDENTIAL MULTIFAMILY, LIGHT INDUSTRIAL, AND HEAVY INDUSTRIAL TO CONDITIONAL DISTRICT – RM-26 RESIDENTIAL MULTIFAMILY WITH THE FOLLOWING CONDITIONS:**  
**1) USES: RESIDENTIAL USES AND ACCESSORY USES AND STRUCTURES.**  
**2) LIMITED TO 48 THREE-BEDROOM APARTMENTS, AN OFFICE FOR THE COMPLEX, AND AN EXISTING THREE-BEDROOM HOUSE.** **3) ALL BUILDINGS SHALL BE OF MASONRY CONSTRUCTION WITH POSSIBLE WOOD OR VINYL GABLES AND TRIM.** **4) ALL BUILDINGS SHALL BE LIMITED TO THREE STORIES IN HEIGHT.** **5) THERE SHALL BE AN OPAQUE FENCE ERECTED ALONG THE ENTIRE EASTERN PROPERTY LINE OF THE SUBJECT PROPERTY.** **6) CITY OF GREENSBORO PLANTING RATES WILL BE DOUBLED ALONG THE SOUTHERN AND WESTERN PROPERTY LINES AND TRIPLED AT THE STREET PLANTING YARD.** **7) A SIDEWALK WILL BE CONSTRUCTED ALONG THE SPRING GARDEN STREET FRONTAGE. – FOR A PORTION OF THE PROPERTY LOCATED ON THE SOUTH SIDE OF SPRING GARDEN STREET BETWEEN PARK TERRACE AND WILLOWBROOK DRIVE – FOR J. SETH COKER. (APPROVED)**

Chairman Wolf said he would recuse himself from consideration or voting on this request since his law firm represents the applicant. He said Mr. Schneider would also recuse himself from consideration and voting on this request since he owns some rental property immediately adjacent to the site.

Mr. Ruska presented a map and slides showing the subject property, as well as showing the surrounding property.

Acting Chair Collins asked if there was anyone present who wished to speak in favor of this item.

Frank Auman, 4605 Dundas Drive, stated he would like to make an amendment to their zoning request. The reason for this amendment is in one of their conditions they have asked to triple the landscaping rate in the street yard, but a street planting yard is only 8 feet in width so it would be hard to physically get that in there. So he would like Condition No. 6 amended as follows:

- 6) City of Greensboro planting rates will be doubled along the southern and western property lines and tripled at the street planting yard. The street planting yard shall be a minimum of 20 feet in width.

Ms. Wright moved that the amendment to Condition No. 6 be accepted, seconded by Mr. Higgins. The Commission voted 7-0-2 in favor of the motion. (Ayes: Higgins, Gilmer, Wright,

Collins, Byrd, McDonnell, Haynes. Nays: None. Abstain: Wolf, Schneider.)

Mr. Auman said he was the principal partner in the group that would like to build 48 high-end student apartments here on this property. Basically, the front parcel, which is about an acre that fronts on Spring Garden Street, is already zoned RM-18. There is a back parcel from which they would like to take almost 2 acres and down zone that from its present zoning to Conditional District - RM-26 Residential Multifamily and their conditional use has stated the rate of 18 units per acre. He believed that this rezoning should have the Commission's support for several reasons. From the earliest stages, they have met with each group that had expressed an interest in this project during the last rezoning hearing a few months ago and have implemented many of their suggestions into the plan. They have the support of the Planning staff, the Lindley Park Neighborhood Association, as many of the adjacent homeowners as they could contact, which was about half of them, and the owners of Southeastern Foundry, who so opposed the last request. This downzones land from existing zoning into conformance with Connections 2025 Greensboro Comprehensive Plan. It also implements a specific recommendation from the recent Spring Garden/Oakland Avenue Corridor design study. It would bring new development into a designated reinvestment corridor, as well as helps meet UNCG's growing need for student housing, and improves the viability of Greensboro's Mass Transit System.

Seth Coker, 623 South Mendenhall Street, said he was a member of the group for whom this application was filed. There was another similar rezoning request brought before the Commission in October, which received 4 votes for and 3 against approval. That proposal was eventually withdrawn by the previous developers. The previous request for rezoning was to CD-RM-18. Because City ordinances do not allow a rezoning request for the same property and same zoning twice in 12 months, they have requested a rezoning of CD-RM-26, and in their conditions limited the site to a density of 18 units per acre. This rezoning request and conditions reflect collaborative effort between the Lindley Park Neighborhood Association, Southeastern Foundry and themselves and does address the issues raised in the previous rezoning proposal. He said there were two representatives of Southeastern Foundry present and he asked them if it were correct to say they did not oppose this plan? Voices from the audience responded, "That's right." He said Lindley Park was working with the City to improve Spring Garden Street aesthetically and functionally. To that end, in their conditions and plans they have incorporated (1) a greatly expanded street planting yard and planting rates over what the City requires and (2) a site plan that maintains an existing single family house on Spring Garden Street.

Joe Wood, 4103 Walker Avenue, said he was here as the chair of the Zoning Committee for the Lindley Park Neighborhood Association Executive Committee. As you have heard, this is a

different plan from the one considered in November. He thought it addresses almost all the concerns that were brought up. The developers were very forthright, very open in their discussions with the Executive Committee. Anytime they had, even after their initial presentation, other concerns, they always responded to them immediately to try and address any ideas or changes that the Committee might have. The vote by the Executive Committee to recommend approval of this was 7 votes for, 1 vote against and 3 abstentions. He read into the record a proposed statement from Seth Coker at Gate City Capital and Frank Auman from Signature Property Group, Inc., addressed to Ms. Stacy Ryan, Chair of the Lindley Park Neighborhood Association, Greensboro, NC.

"We are grateful that the Executive Committee of the Lindley Park Neighborhood Association has expressed its support of our request to rezone a parcel of land in the 2800 block of Spring Garden Street to CU-RM-26. In our meeting with the Committee on February 4, 2004 we explained the conditions attached to our request, including our intentions to build and operate a 48 unit complex of 3 bedroom apartments on this land. We also shared a site plan with the Executive Committee that showed our intentions to minimize the visual impact of the complex along Spring Garden Street by retaining an existing single family house at the front of the property to serve as an office for the complex, and by installing plantings deeper and at a greater rate than those required by City Codes to separate parking spaces at the front of the complex from the sidewalk along Spring Garden Street."

Mr. Wood said this was the key part of this letter that they asked the developers to do and they were very wholeheartedly in support of it.

"We also explained that our concerns that the only means of entrance into and exit from the complex would be situated along the property's Spring Garden Street frontage. We learned of and acknowledge the neighborhood's concern about potential traffic safety impacts associated with this configuration. We acknowledge that to remedy this traffic situation and to pursue a neighborhood goal of improving the Spring Garden Street corridor, the LPNA is likely to request that the City of Greensboro install significant upgrades in streetscape along Spring Garden Street to calm traffic and safely direct its flow through the corridor. We are writing to endorse these neighborhood proposals in general and more specifically future plans to improve Spring Garden Street directly along our frontage. In particular, we agree to endorse any future neighborhood proposal to install a median in Spring Garden Street that will prevent residents of our complex from entering the complex by turning left across Spring Garden Street for traffic approaching from the east, or leaving the complex by turning left across Spring Garden so as to travel west. Sincerely, Seth Coker and Frank Auman."

Acting Chair Collins asked if there was anyone present who wished to speak in opposition to this request and no one came forward.

Mr. Morgan stated that the Planning Department recommends that this request be approved. This is a reduced version of the rezoning proposal that was withdrawn at the November 18, 2003 City Council meeting. The Zoning Commission recommended in favor of that previous request at its October 13<sup>th</sup> meeting following a staff recommendation for approval. This multifamily proposal is compatible with the overall vision developed during a recent Lindley Park neighborhood planning charrette that established a desired boundary for the industrial use area that would follow the southern boundary of this proposal near Hiatt Street. In comparison to the previous proposal, this request establishes a better separation between the

residential development of this tract and the industrial land use to the south. The Generalized Future Land Use Map shows that this property is in a Mixed Use Residential classification. Mixed Use Residential applies to neighborhoods where the predominant use is residential and where substantial, compatible local-serving nonresidential uses may be introduced. Such use mixes are typically found in older, in-town neighborhoods. Mixed Use Residential is also applied in areas suited to a diverse mix of housing types and densities. As mentioned at the time of the previous rezoning request, staff feels that this proposal is consistent with the intent of Connections 2025, given the existing zoning pattern and adjacent land uses. Furthermore, this request is consistent with the fact that this property is in a designated Reinvestment Corridor. Finally, Spring Garden Street is a major transit corridor where higher density

development is supportive of and can take advantage of existing bus service.

Ms. Wright moved an ordinance rezoning from RM-18 Residential Multifamily, Light Industrial and Heavy Industrial to Conditional District – RM-26 Residential Multifamily, subject to the conditions set forth in the application and as amended above, seconded by Mr. Haynes. The Commission voted 7-0-2 in favor of the motion. (Ayes: Higgins, Gilmer, Wright, Collins, McDonnell, Byrd, Haynes. Nays: None. Abstain: Wolf, Schneider.)

Mr. Schneider left the meeting at 5:04 p.m.

- C. AN ORDINANCE REZONING FROM RS-12 RESIDENTIAL SINGLE FAMILY, RM-12 RESIDENTIAL MULTIFAMILY AND CONDITIONAL DISTRICT – GENERAL OFFICE MODERATE INTENSITY WITH THE FOLLOWING CONDITIONS: 1) USES: TRACT A LIMITED TO OFFICE BUILDINGS, MULTIFAMILY WITH DENSITY LIMITED TO RM-12 DENSITY AND TRACT B LIMITED TO OFFICE BUILDINGS. 2) NO BUILDING WILL EXCEED 5 STORIES IN HEIGHT ABOVE FINISHED EXTERIOR GRADE. ANY LEVEL THAT HAS 60% OR MORE OF ITS EXTERIOR WALL AREA (AS MEASURED FROM FINISHED FLOOR TO FINISHED CEILING) ABOVE FINISHED GRADE WILL BE INCLUDED IN THE 5 STORY LIMITATION. 3) DESIGN OF EXTERIOR ELEVATIONS OF OFFICE STRUCTURES WILL BE COMPLIMENTARY TO EACH OTHER TO ENHANCE THE OVERALL HOMOGENEOUS ATMOSPHERE OF THE TRACT. 4) THE DEVELOPMENT OF THE TRACT SHALL BE IN A “CAMPUS-TYPE” ATMOSPHERE (DEVELOPMENT BY A PARENT COMPANY OR ITS SUBSIDIARIES) TO MINIMIZE THE DISRUPTION OF NATURAL GROWTH. NATURAL WATER FLOW AND STORAGE AREAS WILL BE ENGINEERED TO PROVIDE SEDIMENT AND STORMWATER MANAGEMENT IN ADDITION TO COMPLIMENTING THE AESTHETIC VALUE OF THE TRACT. 5) MAJOR ACCESS INTO THE TRACT FROM HOLDEN ROAD SHALL BE PROVIDED BY A DEDICATED STREET RIGHT-OF-WAY. 6) MAXIMUM PLOT COVERAGE WILL BE LIMITED TO 28%. TO CORPORATE PARK – FOR A PORTION OF THE PROPERTY LOCATED ON THE WEST SIDE OF SOUTH HOLDEN ROAD BETWEEN FARMINGTON DRIVE AND DARDEN ROAD – FOR KOURY CORPORATION. (APPROVED)**

Chairman Wolf said the record should reflect that Mr. Schneider had departed. He may be back, but he wasn't sure so at this point he is absent from the meeting.

Chairman Wolf said Mr. Byrd and Mr. Higgins have done work for the applicant and need to recuse themselves from consideration or voting on this matter.

Mr. Ruska presented a map and slides showing the subject property, as well as showing surrounding properties.

Chairman Wolf asked if there was anyone present who wished to speak in favor of this item.

Steve Showfety said he was associated with Koury Corporation, the sponsor of this request. Mr. Showfety submitted a map of the subject property and said the property in question consists of approximately 135 acres. Prior to this request, they rezoned 39 acres at last month's meeting. They would have asked for all of this property to be rezoned at one time.

However, they learned that their traffic study was not complete and the traffic study spoke most rigorously to the commercial component. Therefore, they had to delay this application. Although the two tracts of land are contiguous and represent about 180 acres, it is part of a 450 acre tract that Koury Corporation developed, which includes all of the StonesThrow development to the north, including StonesThrow Shopping Center, which is all the way to High Point Road. 1978 was the original date that a portion of this property was zoned for office use and that represented at that time 58 acres. They did not own the property south of the blue shaded property at that time and only within the last 5 years were they successful in purchasing that undeveloped property. The subject property is one of the largest, if not the largest, landmasses in Greensboro without a completed roadway network. The two major collector roads that will be constructed through the site include Frazier Road, which runs east/west from Groometown Road to High Point Road and a major road running north/south, which was not alluded to in the presentation by the staff as Glen Hollow Road, which will intersect with Farmington Road and then will connect a network from Vandalia Road to High Point Road. These cover 1 mile of critically important collector roadways that address the important connectivity issue promoted by the Planning Department. The requested rezoning is consistent with the suggested comprehensive plan land use and addresses the concern expressed by the Planning Department with regard to the question of sprawl, which is addressed very early in the comp plan and in essence, without reading the definitions, challenges us as a community to more fully utilize our infrastructure. This tract of land is less than 1 mile from I-85 and they believe the suggested land use is the highest and best land use for the area and is part of the larger development that Koury has developed in that area. The Corporate Park District is primarily intended to accommodate office, warehouse, research and development, assembly uses or large sites in a planned, campus-like setting compatible with adjacent residential uses. The apartments to the north, the shopping center to the northwest, and the residential single family detached houses to the west and the south make for a planned community with a roadway network to help disperse that traffic. He handed out a couple of visual aids and should questions be asked during the rebuttal period, he could make reference to the map. Based on the underlying facts, he respectfully requested favorable consideration of this rezoning request. He said the roadway system was illustrated in the handout and he would leave one at the speakers' podium for review. He said he would also leave the traffic study at the podium for further reference.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to this request.

Danny Lineberger, 3112 Farmington Drive, said their property was across Holden Road from the proposed rezoning area. He said Koury had been a good neighbor in this area. They do a good business. They have the shopping mall, which is an excellent mall; StonesThrow has been very well maintained so he had a lot of respect for what Koury has done. The first proposal says they will maintain buffer zones and a campus-like atmosphere. If this goes through, they would like to make sure that actually happens and it does not disturb the natural feel of the area overly so. Secondly, they are concerned about the impact of the new construction on the streams and flooding in this area. There is some major flooding on Holden Road after even a moderate rain. There is a lot of flooding in the area and he hoped that they could address that issue also. Thirdly, they are also concerned about traffic flow. They mentioned the feeder roads to be built or already built there, but he was not familiar with those so he could not speak very much to that. Coming east on Farmington at the edge of their property at Stones Throw, that is a very bad intersection and currently they have two right-turn lanes, a left and straight ahead lane. It is really a very dangerous intersection. He would



suggest that they have a right turn lane, a left turn lane, and a straight ahead lane. He was concerned about the impact to the neighborhood south of there.

James Farley, 2403 Pinelake Drive, said he would try to present facts he thought could not be documented. Not only are they not in favor of the zoning change, he was concerned about the further disturbance of the 135 acres in question. His concerns included: harm to the stream that runs through this property into Twin Lakes Pond; unsupervised burning in pits and by some type of burn machine; illegal dumping of trash, furniture, etc., on the site making it a landfill; destruction of old hardwood trees, one of them being the largest of its species in this County; and destruction of habitat for wildlife. He said he had approached City Council with these complaints by e-mail and personally, but nothing had been done.

Joyce Swain, 3002-D Darden Road in the Pinewood Forest Townhomes, said she had two concerns. The traffic was one big concern, knowing that when you want to go into their complex off of Holden Road, you have to make a U-turn if you are going east and want to turn into the complex. But her main concern was why do we have to have the possibility of a warehouse, assembly and research in the middle of residential? It is zoned for offices now, so why do we have to worry about the possibility of down the road having a warehouse across from them or an assembly plant? She said she just did not understand why, if what they wanted to do is build offices and homes, the zoning cannot stay as it is. The traffic is horrendous on Holden Road and this will only add more traffic.

Chairman Wolf said the applicant could have 5 minutes of rebuttal.

Mr. Showfety said he would like to address specifically a couple of comments that were made. One of them was an environmental issue. He would in a global statement put their reputation on the line to defend within this community their environmental reputation and their history of developing property in a respectful manner in this community against any other developer. Specifically with regard to this site, he would like to bring attention to the fact that Koury Corporation has just completed a \$500,000 stream restoration project on a portion of this property. That stream restoration was a byproduct of a wetlands permit that they did at Grandover and they could have forfeited those funds to the Corps of Engineers and allowed them to use those funds anywhere they wanted to and relieved themselves of that obligation. They elected to do it here in Greensboro, do it in an area that they thought was particularly meaningful and could affect downstream the Twin Lakes area that was alluded to by

Mr. Farley. In addition to that, they have a 5-year responsibility to the Corps of Engineers to maintain that stream and the banks. He believed that spoke to their environmental commitment to the development. Another matter that he would speak to that does not have anything to do with the zoning is the fact that the burning that was done and the machine that was used is the absolute safest burning mechanism and was recommended by the fire departments. They are one of the few companies in this region that has that burn machine and it is a self-contained unit that they have used on this site. Unfortunately, they can only burn permitted debris in it and not stuff that is dumped on this site by the neighbors and people that come to this area to find an undeveloped area where they can leave their garbage for them to deal with instead of taking it to the appropriate places. Mr. Farley had contacted them, to his knowledge indirectly through their City Council representative, to let them know that they have a problem there. As timely as possible, they have tried to address that. The traffic issue is a specific issue with regard to this zoning and the City does require traffic studies to be done as part of a larger rezoning request such as this. The traffic study speaks to a signal that would be along Holden

Road that would break some of those higher speed areas that are not interrupted by traffic lights. They would ultimately be installed there as that demand arises. Also the traffic study speaks to the fact that traffic will be taken off of Farmington Drive and more efficiently utilized on Frazier Road as it travels through the site, instead of having just one location where all the short-cut traffic seems to be avoiding the High Point Road/South Holden Road intersection by going down Farmington Drive. Compliance with the Storm Water requirements, compliance with the impervious surface requirements that exist today, compliance with the stream restoration that has already been done and the other ordinances that are in place to protect the environment will speak to the vast majority of the concerns that have been expressed today. He said their intentions were to enhance this land mass area physically and economically to the benefit of the region and he would offer past examples of their ability to successfully do that and not impose a hardship on the immediate area as testimony to that success.

Chairman Wolf said the opponents also could have 5 minutes for rebuttal.

Mr. Farley said words are good on the surface. Fancy brochures and nice talk are great, but these have to be backed up by deeds. There has been a lot of misrepresentation here. They had told him that they had cleaned it up, but you go out two days later and nothing has changed. He applauded the Koury Corporation because when you look at their parking lots, there are guys out there cleaning up every day. He was talking about what was buried behind the trees, what is in the streams. He presented photographs of mattresses and other debris. One photo showed some of the land that was reclaimed, but said it was already breaking down and eroding. The streams going to those lakes and through the park are full of silt and trash. Why add more to it when the City has already been unable to control it? If buildings and parking lots are added, there will be more runoff and more flooding in the area. He said there was a pattern here of irresponsibility, of individuals not telling the truth. He said all he asked was for the City ordinances to be enforced and followed.

Mr. Morgan said the Planning Department recommends that this request be approved. The Generalized Future Land Use Map classifies this area as Mixed Use Corporate Park. This designation is intended for large tracts of undeveloped land that are appropriate for well planned, larger scale business/employment parks with supporting uses such as retail, hotels, and residential. Thus, the proposed Corporate Park zoning district is compatible with Connections 2025. Such a district is primarily intended to accommodate office, warehouse, research and development and assembly uses on large sites in a planned, campus-like setting compatible with adjacent residential uses. The CP District may also contain retail and service uses which customarily locate within planned employment centers. Based on the size of this site, infrastructure improvements will be required such as constructing the internal street system discussed in the Transportation Impact Study, as well as turn lanes and other improvements at the intersection of Holden Road and Vandalia Road, and two site access points on Holden Road/Cypress Park Road and Farmington Drive.

Ms. Wright moved an ordinance rezoning from RS-12 Residential Single Family, RM-12 Residential Multifamily and Conditional District - General Office Moderate Intensity with certain conditions to Corporate Park, seconded by Mr. Gilmer. The Commission vote 7-0-2 in favor of the motion. (Ayes: Wolf, Gilmer, Schneider, Wright, Collins, McDonnell, Haynes. Nays: None. Abstain: Higgins, Byrd.)

**D. AN ORDINANCE REZONING FROM RS-12 RESIDENTIAL SINGLE FAMILY AND LIMITED BUSINESS TO CONDITIONAL DISTRICT – RM-8 RESIDENTIAL MULTIFAMILY WITH THE FOLLOWING CONDITIONS: 1) USES: ALL USES PERMITTED UNDER RM-8. 2) GROSS DENSITY SHALL NOT EXCEED 5 UNITS PER ACRE. – FOR A PORTION OF THE PROPERTY LOCATED AT THE NORTHEAST INTERSECTION OF LEES CHAPEL ROAD AND WATLINGTON ROAD – FOR WILLIAM C. RAY AND DAVID RAY. (APPROVED)**

Chairman Wolf said that Mr. Higgins would not be participating in the discussion or voting on this item due a conflict of interest.

Mr. Ruska presented a map and slides showing the subject property, as well as showing the surrounding properties.

Chairman Wolf asked if there was anyone present who wished to speak in favor of this request.

Chris Craig, Esq., with Hunter Higgins Law Firm, 101 West Friendly Avenue, said he represented David and William Ray who recently purchased this land located at the corner of Lees Chapel Road and Watlington Road. He presented a map on which the property was located. He explained that the back portion shown in green was now in the County, and would be subject later to an annexation request and perhaps will be back for a rezoning for the back portion. At this time, they are requesting the rezoning of only the front portion outlined in purple on the map to a classification of CD-RM-8, with the condition that the gross density not exceed 5 units per acre. A service station was previously located on the property, but it went bankrupt in 1988 and has been abandoned since that time. After all the necessary environmental checks and cleanup on the property, the Rays took title to the land earlier this year. The Rays have been involved in infill development in Greensboro for years and their responsible developments have helped increase surrounding property values significantly. The subject property is planned for 3 stages. The first stage will consist of 7 single family homes along Lees Chapel Road. Subsequent phases will include 7 more homes along Watlington Road and a series of townhomes in the center of the property. As can be seen from the map, this development will contain a great amount of green space, both between the different structures as well as behind phase 3. The question has come up as to why they are not seeking a

rezoning to RM-5. The most notable reason is that RM-5 requires a minimum lot size of 26,000 square feet for the first 3 units and 8,712 square feet for each additional unit. RM-8 will allow them the same density with a minimum of 16,000 square feet for the first 3 units and 5,400 for each additional unit. Consistent with the City's comp plan, this plan meets Greensboro's need for higher density. Infill home sites and will also give East Greensboro responsible development with plenty of green space.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to this request and no one came forward.

Mr. Morgan said the Planning Department recommends that this request be approved. The Generalized Future Land Use Map shows this area to be classified at Low Residential (3-5 dwelling units/acre). As conditioned, the proposed rezoning is compatible with Connections 2025 and is compatible with comprehensive plan objectives to promote compact urban development and to provide affordable housing opportunities.

Mr. Haynes moved an ordinance rezoning from RS-12 Residential Single Family and Limited Business to Conditional District - RM-8 Residential Multifamily with the conditions as set forth in the application, seconded by Ms. McDonnell. The Commission voted 8-0-1 in favor of the request. (Ayes: Wolf, Gilmer, Schneider, Wright, Collins, McDonnell, Byrd, Haynes. Nays: None. Abstain: Higgins.)

**E. AN ORDINANCE REZONING FROM RS-12 RESIDENTIAL SINGLE FAMILY TO RS-7 RESIDENTIAL SINGLE FAMILY – FOR A PORTION OF THE PROPERTY LOCATED ON THE NORTH SIDE OF WILCOX DRIVE BETWEEN PINEWAY DRIVE AND PINENEEDLE DRIVE – FOR JERRY NIXON. (FAVORABLE RECOMMENDATION)**

Mr. Ruska presented a map and slides showing the subject property, as well as showing the surrounding properties.

Chairman Wolf asked if there was anyone present who wished to speak in favor of this request.

Jerry Nixon, 2303 Wilcox Drive, said he had 3 lots and he wished to rezone lots 8 and 9 for better use.

Robert Russell, with Associated Survey & Engineering, 108 State Street, stated that he had been retained by Mr. Nixon to help him better utilize his property. As he said, he owns 3 lots, the one on which his house is located, the one to the immediate right of his house and the lot behind it that is the piece of RS-12 that they are not requesting rezoning on. The reason for the requested RS-7 rezoning is the way Mr. Nixon's house was constructed by the original subdivider of the land because it sits too close to the property line to be able to divide the extra lot that he has. So to correct that and not have to require a variance, they are asking for a lower zoning so they can reduce the lot width and establish the proper setback distances to the existing house. That would allow for 2 additional lots to be put on the property. They would not be able to utilize the portion in the back, it would remain with his property because it doesn't have proper access to the streets and it also would only allow for a flag lot to be placed on the lot. At this time, they are not trying to do that. They are proposing two lots to the east of

Mr. Nixon's present house, each lot being approximately 9,000 square feet in size. RS-9 requires a 60-foot lot width, which would not allow them to do that and still maintain the proper setbacks for his home. The new lots would be consistent in width to the subdivision nearby.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to this request.

Jack Zimmerman, 2304 Wilcox Drive, which is directly across the street from this property, said he had been there for 5 years. When he first moved there, there was very little traffic on this street. In the past 5 years, there have been several hundred homes built in that area and the traffic has tripled through there. If these two houses are built, there would be no way to put a drive behind the houses so you would have to back out onto Wilcox, which would be unsafe. There is a dry creek behind the subject property and if the property is cleared, it will present a problem with the creek. He did not think it would be in harmony with the neighborhood to put small houses on this small lot. He thought the surrounding property would also decrease in value. Most of the lots on this street consist of 100 foot width or more. The neighborhood would not like to see two houses put on this lot. They would like for him to put one house on this lot to

conform to the neighborhood.

Mary Lou Zimmerman, 2304 Wilcox Drive, said the other problem that exists is one that was not shown on the slides and that is that this property has a very steep bank and a high bank. It tapers off on the side and comes down and ends in the driveway of the house next door. If they take all of the trees off the bank and off the lot, that bank will give way in a wet season unless they build a very strong wall that would hold that bank. There is a wet area there that drains under the road and across the road into a lot that cannot be developed. The neighborhood is adamantly against rezoning this because there is nothing that says the Nixons cannot sell the rest of that property, which leaves it open to have more homes put in there if it is rezoned to RS-7. They want the zoning left at RS-12 so that they can have one nice home there.

Sekina Hamlin, 2233 Wilcox Drive, said that when she moved to Greensboro from Washington, D.C., one of the reasons that she came back, having graduated from Bennett College, was that she remembered Greensboro to be a pro-neighborhood and pro-family city. Therefore, when she decided to buy property here in 1999, she went looking for a home where there would be sufficient spacing in the lots. Yes, there is RS-5 zoning on Pineway Drive; however, you cannot see that as readily from Wilcox. As you turn in from O'Henry Drive onto Wilcox Drive, basically you see only the RS-12 neighborhoods. She said she currently lives in an RS-9 zoning district that, quite honestly, is in and of itself somewhat out of configuration, but she could not do anything about that. It was better than some of the RS-9s that you see in other places. She felt this rezoning would devalue her property. She felt that putting two houses on the RS-7 lots would not be aesthetically pleasing to their neighborhood. They discussed this Saturday at their meeting and a lot of them were adamantly against it.

Doyle Brand, 2221-C Wilcox Drive, said he was probably one of the oldest residents there since he was born and raised there where the big RS-12 is. They have tried to maintain nice properties, keep their lots big and keep the houses set back. Most all of them have lived there for a long time. These people just bought the property, knew it was zoned RS-12 when they purchased it. His feelings were that if they wanted to develop and put houses in, they should have gone somewhere where it was already zoned RS-7. He passed up some pictures of the

RS-5 and RS-9. As can be seen, most all of those houses do not have adequate parking. The streets that they pay their tax dollars to curb and gutter are parking lots. All the pictures were taken this past weekend. He felt there was no way they could build the two houses and take care of more than one small vehicle per household.

Clarence Brand, 2211 Wilcox Drive, said he was against the rezoning of the RS-12 property to RS-7.

Chairman Wolf asked if the applicant would like 5 minutes for rebuttal.

Mr. Russell returned to the podium and said they spoke about increased traffic. Two homes would generate approximately 6 trips per day. They spoke of a watershed and a creek. That is certainly not a watershed, it is below the watershed. He thought they were speaking of a drainage area. It is contained on the RS-12 lot that they are not requesting for rezoning. It is true that these two lots, as well as numerous other lots, do drain through the lower end of this property, which is another reason why that lot is not particularly suitable for the flag lot. The bank mentioned is a side hill. It should not pose a construction problem. The ditch in front of

the house is there because that portion of the road is not curb and guttered and there are ditches on both sides of the road. Of course, any driveway would have to have drive tiles to be put in and maintained as a yard. A mention was made of the nice yards and lot depths. He said if he was not mistaken, these lots are proposed to be approximately 188 feet deep. That would certainly provide room enough for two car storage, which is the typical storage required in the City now.

Chairman Wolf asked if the opponents would like 5 minutes for rebuttal.

Mr. Zimmerman returned to the podium and said in describing this lot on Wilcox, the house across the street from where he lives is up an incline that is pretty steep. The lot beside Mr. Nixon's home that they are trying to rezone is even steeper. He felt backing out of the new homes will pose a hazard to the people backing out into the street. The traffic is heavy since it connects Martin Avenue to Highway 29.

Doyle Brand returned to the podium and said Mr. Russell spoke of the houses in the RS-5 zone being nice houses, which they are. But in a lot of the pictures it should be noted that he took pictures of the homes with the "For Sale" signs. He said there were 7 homes for sale now and some had even reduced the asking price. He said nobody wanted to live there. He didn't want to come home every day and see cars parked on the side of Wilcox.

Mary Lou Zimmerman returned to the podium and said in the recent revaluation of property, their property value increased \$15,000. If the requested rezoning is permitted along Wilcox where most of the property is 100 foot frontage or more, the rest of the property will be devalued. She said their property represents their lifetime. They would like to be able to have it stay the way it is for the time being. She would hate to have her property devalued by putting two houses on that small lot.

Mr. Morgan said the Planning Department recommends that this request be approved. This request is compatible with the Generalized Future Land Use Map that classifies this area as Low Residential (3-5 dwelling units/acre). It is compatible with the RS-5 single family zoning west and north of the subject property. Approval of this request would allow for a maximum of two lots, 50-feet wide and more than 9,000 square feet in size, to be developed with single

family detached dwellings on the eastern portion of the property. This would be compatible with comprehensive plan objectives to promote compact urban development and to provide affordable housing opportunities. The Planning Department recommends that this request be approved. This request is compatible with the Generalized Future Land Use Map that classifies this area as Low Residential (3-5 dwelling units/acre). It is compatible with the RS-5 single family zoning west and north of the subject property. Approval of this request would allow for a maximum of two lots, 50-feet wide and more than 9,000 square feet in size, to be developed with single family detached dwellings on the eastern portion of the property. This would be compatible with comprehensive plan objectives to promote compact urban development and to provide affordable housing opportunities.

Ms. Wright moved an ordinance rezoning from RS-12 Residential Single Family to RS-7 Residential Single Family, seconded by Mr. Gilmer.

Mr. Byrd said these folks had been here through a very long session and he did not want there to be the perception on their part after he voted on this matter that the Commission has not

heard their concerns. The Commission certainly does hear their concerns and hears the same practically every month. However, with the comp plan attempting to increase the density that we are developing our residential property, he felt that he had to vote for this rezoning. He felt he was almost compelled to because if he did not, he would be treating this particular property owner differently than what this Zoning Commission has treated other applicants before the Commission.

Chairman Wolf said he thought he had been a leader of the same thought, but most of the ones that he recalled they have done it on, did not have a layout this uniform. There have been a couple of developers who have come here repeatedly for this kind of increasing of density in residential. Mr. Marks is one of them and there is another gentleman that has come in quite a few times over the two years. In every place they have done it, the lots were not as uniform up and down the whole street. This one is laid out pretty consistently here, unless you are going to start doing this all up and down the road. He didn't know of any examples of the Commission doing that in the last several years.

Mr. Higgins said this came in as RS-12 and as one the opponents pointed out, it was formerly in the County. When everything comes in from the County as residential it is just automatically been as RS-12. Virtually every neighborhood that has been annexed has been RS-12. To him, to the north of this there is the RS-5 and then RS-9 farther west. And then over to the east, you essentially have the highway over there. He just did not see where this was inconsistent with what the Commission had been doing at all. He thought it was very much in alignment with what the Commission had been doing.

Chairman Wolf said he did not have a recollection in the three years he had been on the Commission of their squeezing two houses into that tight a space. So he was going to vote against it.

In response to a question from Mr. Collins, Mr. Ruska said the RS-9 to the west had been rezoned by the Commission.

Chairman Wolf said there was a motion on the floor. The Commission then voted 5-4 in favor of the motion. (Ayes: Higgins, Gilmer, Schneider, Wright, Byrd. Nays: Wolf, Collins, McDonnell, Haynes.)

- E. AN ORDINANCE REZONING FROM LIGHT INDUSTRIAL TO CONDITIONAL DISTRICT – HIGHWAY BUSINESS WITH THE FOLLOWING CONDITION:**  
**1) USES: ALL USES PERMITTED IN HB EXCEPT FOR USES THAT CONTAIN DRIVE-THRU SERVICES OR DRIVE-THRU WINDOWS. - FOR A PORTION OF THE PROPERTY LOCATED AT THE NORTHEAST INTERSECTION OF RANDLEMAN ROAD AND ROBBINS STREET – FOR STEPHEN L. ELLISON. (WITHDRAWN)**

This request was withdrawn at the beginning of the meeting.

- G. AN ORDINANCE REZONING FROM PUBLIC AND INSTITUTIONAL TO HEAVY INDUSTRIAL – FOR A PORTION OF THE PROPERTY LOCATED NORTH OF PATTON AVENUE ON THE EAST SIDE OF THE HUGH MEDFORD CITY SERVICE OPERATIONS CENTER – FOR THE CITY OF GREENSBORO. (APPROVED)**

Mr. Ruska presented a map and slides showing the subject property, as well as showing the surrounding properties.

Chairman Wolf asked if there was anyone present who wished to speak in favor of this request,

Howard Fleming, with Davis, Martin & Powell, 218 Gatewood Avenue, High Point, said he resided at 5501 Turtle Cove Court, Greensboro. He said he was here on behalf of the City. He presented a copy of the rezoning map that they turned in and the yellow portion is what you are seeing at the top that is being requested. There are several pieces of property out here where there really hasn't been any firm subdivision of the property since the 1800s to establish the uses. Hugh Medford has grown and encumbered bits and pieces of the actual golf course. This is really just codifying that whole use out there. He presented a topographic survey that shows again the rezoned area. The fence he has highlighted in red through there shows that the Hugh Medford facility is already using a piece of this and has for a long time. The blue line is the proposed new property line. He presented a site plan of what was intended. There will be a new vehicle wash to replace the vehicle wash in the facility. They will expand Building H, which is a conglomeration of various additions here over the years. It is displacing the current car wash, which is outmoded as a vehicle wash. It is used for cars and trucks. He pointed to a facility that was placed back quite far from the property line. However, because of all the grading that is necessary to raise that, they have had to place the vehicle wash midway between the lower pad elevation, which was photograph 2, and photograph 3, which is this upper area where they will build the building expansion. This is phase 2 once they get the truck wash relocated. It is a cul-de-sac sort of layout where the trucks will come in from the decel lane to access this. There are 3 lanes of stacking. Vehicles will go through the vehicle wash and then exit out the facility or recirculate back out at this location. The green indicated is new planted 3 to 1 fill slope. There is a 50-foot landscape buffer required that location.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to this request and no one came forward.

Mr. Morgan said the Planning Department recommends that this request be approved. This triangular piece of Gillespie Golf Course is needed to accommodate a vehicle wash facility and an addition to Equipment Services Building H at the Hugh Medford City Service Operations Center. The Generalized Future Land Use Map shows the Operations Center to be in an area designated as Industrial/Corporate Park with the golf course being designated as Major Parks/Open Space. Staff feels this is a reasonable request since it is the minimum amount of land that will support the needed improvements at the Operations Center.

Ms. Wright moved an ordinance rezoning from Public and Institutional to Heavy Industrial, seconded by Mr. Schneider. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, McDonnell, Byrd, Haynes. Nays: None.)

**ITEMS FROM THE PLANNING DEPARTMENT:**

None.

**ITEMS FROM THE ZONING COMMISSION MEMBERS:**



Mr. Ruska was commended for going out in the inclement to take the necessary photographs for this meeting.

**ACKNOWLEDGMENT OF ABSENCES:**

None.

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There being no further business before the Commission, the meeting was adjourned at 6:27 p.m.

Respectfully submitted,

R.W. Morgan  
Assistant City Manager

RW/jd.ps